

The Gazette



of India

EXTRAORDINARY

PART II—Section 1

PUBLISHED BY AUTHORITY

No. 1] NEW DELHI, SATURDAY, JANUARY 12, 1957

MINISTRY OF LAW

New Delhi, the 12th January, 1957

The following President's Acts are published for general information—

THE KERALA CIVIL COURTS ACT, 1957

No. 1 OF 1957

Enacted by the President in the Seventh Year of the Republic of India.

An Act to consolidate and amend the law relating to civil courts in the State of Kerala, subordinate to the High Court of Kerala.

In exercise of the powers conferred by section 3 of the Kerala State Legislature (Delegation of Powers) Act, 1956, the President is pleased to enact as follows:—

PART I

PRELIMINARY

1. (1) This Act may be called the Kerala Civil Courts Act, 1957.
- (2) It extends to the whole of the State of Kerala.
- (3) It shall come into force on such date as the Government may, by notification in the Gazette, appoint.

Short title, extent and commencement.

PART II

ESTABLISHMENT AND CONSTITUTION OF SUBORDINATE CIVIL COURTS

2. In addition to the courts established under any other law for the time being in force, there shall be the following classes of civil courts in the State, namely:—

Classes of subordinate civil courts.

- (i) the court of a District Judge (hereinafter referred to as the District Court);

(1)

(ii) the court of a Subordinate Judge (hereinafter referred to as the Subordinate Judge's Court);

(iii) the court of a Munsiff (hereinafter referred to as the Munsiff's Court).

Establishment of District Courts.

3. (1) For the purposes of this Act, the Government may, by notification in the Gazette, divide the State into civil districts (hereinafter referred to as districts) and alter the limits or the number of such districts.

(2) The Government shall establish a District Court for each district and a Judge (hereinafter called the District Judge) shall be appointed to such court.

Appointment of Additional District Judges.

4. (1) When the state of business pending before a District Court so requires, one or more Additional District Judges may be appointed to that court for such period as is deemed necessary.

(2) An Additional District Judge shall discharge all or any of the functions of the District Judge under this Act in respect of all matters which the District Judge may assign to him, or which under the provisions of section 7 may be instituted before him, and in the discharge of those functions he shall exercise the same powers as the District Judge.

Establishment of Subordinate Judge's Courts and Munsiff's Courts.

5. (1) The Government may, in consultation with the High Court, establish in each district such number of Subordinate Judge's Courts and Munsiff's Courts as they deem necessary.

(2) The Government may, in consultation with the High Court, fix, and from time to time vary, by notification in the Gazette, the number of Subordinate Judges to be appointed for a Subordinate Judge's Court or the number of Munsiffs to be appointed for a Munsiff's Court.

Principal and Additional Subordinate Judge and Munsiff.

6. (1) When more than one Subordinate Judge is appointed to a Subordinate Judge's Court, or more than one Munsiff is appointed to a Munsiff's Court, one of the Subordinate Judges or Munsiffs shall be appointed the Principal Subordinate Judge or the Principal Munsiff and the others Additional Subordinate Judges or Additional Munsiffs, as the case may be.

(2) Each of the Judges or Munsiffs appointed to a Subordinate Judge's Court or a Munsiff's Court may exercise all or any of the powers conferred on the court by this Act or any other law for the time being in force.

(3) Subject to the general or special orders of the District Judge, the Principal Subordinate Judge or the Principal Munsiff may from time to time make such arrangements as he thinks fit for the distribution of the business of the court among the various Judges or Munsiffs thereof.

7. (1) The place or places at which any court referred to in section 2 shall be held, may be fixed, and may from time to time be altered, by—

Court's
location.

(a) the Government in the case of a District Court or a Subordinate Judge's Court, and

(b) the High Court in the case of a Munsiff's Court.

(2) The High Court may, with the approval of the Government, direct by notification in the Gazette that all or any class of proceedings arising in a specified local area in a district which would ordinarily be instituted in the District Court, may be instituted before an Additional District Judge of that court sitting in a place other than the place where the District Judge sits.

8. Every court under this Act shall use a seal of such form and dimensions as are for the time being prescribed by the Government.

Seal of
court.

PART III

JURISDICTION

9. The Government shall fix, and may from time to time vary, the local limits of the jurisdiction of any Subordinate Judge's Court in consultation with the High Court.

Local limits
of jurisdiction
of Sub-
ordinate
Judge's
Courts.

10. The High Court shall fix, and may from time to time vary, the local limits of the jurisdiction of any Munsiff's Court.

Local limits
of jurisdiction
of
Munsiff's
Courts.

11. (1) The jurisdiction of a District Court or a Subordinate Judge's Court extends, subject to the provisions of the Code of Civil Procedure, 1908, to all original suits and proceedings of a civil nature.

Jurisdiction
of District
Court and
Subordinate
Judge's
Court in
original suits.

5 of 1908.

(2) The jurisdiction of a Munsiff's Court extends to all like suits and proceedings not otherwise exempted from its cognisance of which the amount or value of the subject-matter does not exceed five thousand rupees.

12. Save as provided in section 13, regular and special appeals shall, when such appeals are allowed by law, lie from the decrees or orders of a District Court or a Subordinate Judge's Court to the High Court.

Appeals
from decrees
and orders
of District
Court or
Subordinate
Judge's
Court.

Appellate jurisdiction of District Court and Subordinate Judge's Court.

13. Appeals from the decrees and orders of a Munsiff's Court and where the amount or value of the subject-matter of the suit does not exceed seven thousand and five hundred rupees, from the original decrees and orders of a Subordinate Judge's Court shall, when such appeals are allowed by law, lie to the District Court:

Provided that whenever a Subordinate Judge's Court is established in any district at a place other than the place where the District Court is stationed, the High Court may, with the approval of the Government, direct that appeals from the decrees or orders of Munsiff's Courts within the local limits of the jurisdiction of such Subordinate Judge's Court be preferred in such Subordinate Judge's Court:

Provided further that the District Court may remove to itself from time to time appeals so preferred and dispose of them itself or may, subject to the orders of the High Court, refer any appeals from the decrees and orders of Munsiff's Courts preferred in the District Court to any Subordinate Judge's Court within the district.

Power to require witness or party to make oath or affirmation.

14. Every court under this Act may require a witness or party to any suit or other proceeding pending in such court to make such oath or affirmation as is prescribed by the law for the time being in force.

Judges not to try suits in which they are interested; nor to try appeals from decrees passed by them in other capacities.

15. (1) No District Judge, Subordinate Judge or Munsiff shall try any suit, proceeding or other case to which he is a party or in which he is personally interested.

(2) No District Judge or Subordinate Judge shall hear any appeal against a decree or order passed by himself.

(3) When any such suit, proceeding, case or appeal as is referred to in sub-section (1) or sub-section (2) comes before any such officer, he shall transmit forthwith the record of such suit, proceeding, case or appeal, as the case may be, to the court to which he is immediately subordinate with the report of the circumstances attending the reference.

(4) The superior court may transfer the suit, proceeding, case or appeal either to itself or to any court under its administrative control competent to decide it.

PART IV

MISCELLANEOUS

Temporary discharge of duties of District Judge.

16. In the event of the death of the District Judge or of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence from the station in which his court is held, the senior Additional District Judge or the Additional District Judge

or the senior Subordinate Judge or the Subordinate Judge, as the case may be, shall, without interruption to his ordinary duties, assume charge of the District Judge's office and shall discharge such of the current duties thereof as are connected with the filing of suits and appeals, the execution of processes and the like and shall continue in charge of the office until the same is resumed or assumed by an officer duly appointed thereto.

17. Subject to the other provisions of this Act and to the rules for the time being in force and prescribed by the High Court in this behalf, the general control over all the civil courts under this Act in any district is vested in the District Judge. District Judge to control civil courts of district.

18. The High Court may, by notification in the Gazette, invest within such local limits as it shall from time to time appoint, any District or Subordinate Judge with the jurisdiction of a Judge of a Court of Small Causes for the trial of suits cognisable by such courts up to the amount of one thousand rupees, and any Munsiff with the same jurisdiction up to the amount of five hundred rupees. Investiture of District or Subordinate Judge or Munsiff with small cause jurisdiction.

19. (1) The High Court may permit the civil courts under its control to adjourn from time to time for periods not exceeding in the aggregate sixty days in each year. Adjournment of civil court.

(2) During the adjournment of a civil court, the High Court shall have the power to make provisional orders in all urgent matters and for such purpose to receive appeals, plaints and petitions which would ordinarily be presented to such civil court and any such order shall remain in force only until the matter has been heard and decided by the court having jurisdiction.

20. The ministerial officers of a court shall perform such duties as may from time to time be imposed upon them by the presiding officer of the court. Duties of ministerial officers.

XI of 1089. 21. (1) In the Land Acquisition Act—

Amendment of Acts X of 1089 and XV of 1950

(a) for the words "District Court" wherever they occur, the word "court" shall be substituted;

(b) in section 3, after clause (c.1), the following clause shall be inserted, namely:—

'(c-2) The expression "court" means the District Court, unless the Government have appointed (as they are hereby empowered to do) a special judicial officer within any specified local limits to perform the functions of the court under this Act;'

(2) In the Travancore-Cochin Hindu Religious Institutions Act, 1950, sub-section (2) of section 55 and sub-section (2) of section 124 XV of 1950, shall be omitted; and sub-section (1) of section 55 and sub-section (1) of section 124 shall be re-numbered as section 55 and section 124 respectively.

Repeal and
savings.

22. (1) The Madras Civil Courts Act, 1873, as in force in the Malabar district referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956, and the Travancore-Cochin Civil Courts Act, 1951, are hereby repealed.

Madras Act
III of 1873.
37 of 1956.
XXII of
1951.

(2) Notwithstanding anything contained in sub-section (1), all courts constituted, appointments made, limits fixed and jurisdiction and powers conferred under any Act hereby repealed shall, so far as may be consistent with this Act, be deemed to have been constituted, made, fixed and conferred under this Act.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), all District Judges, Subordinate Judges and District Munsiffs, who, immediately before the commencement of this Act, were empowered by or under the Travancore-Cochin Civil Courts Act, 1951, to hear and determine certain classes of suits as small causes shall continue to exercise such power in respect of such classes of suits in accordance with the provisions of the said Civil Courts Act as if such provisions were not repealed.

RAJENDRA PRASAD,

President.

K. Y. BHANDARKAR,
Secy. to the Govt. of India.

Reasons for the enactment

The provisions relating to the civil courts subordinate to the Kerala High Court are contained in the Travancore-Cochin Civil Courts Act, 1951 (XXII of 1951), and the Madras Civil Courts Act, 1873 (III of 1873). The first Act applies to the subordinate courts in the Travancore-Cochin area and the second Act applies to those in the Malabar district referred to in section 5 (2) of the States Reorganisation Act, 1956 (37 of 1956). It is necessary to enact a uniform law for the whole State of Kerala. The Kerala Civil Courts Act, 1957, which has been enacted for this purpose, follows in the

main the provisions of the two Acts, especially the Madras Act. The variations made in the Act from the existing provisions are briefly explained below.

2. *Section 2.*—There will ordinarily be three classes of civil courts under the new Act also as before, viz., District Courts, Subordinate Judge's Courts and Munsiff's Courts; only the nomenclature "Munsiff's Court" has now been used in lieu of the previous one, viz., "District Munsiff's Court", as the territorial jurisdiction of a District Munsiff does not extend to a district but only to a portion thereof, and as the latter nomenclature is hence misleading.

3. *Section 3* provides for the division of the State into civil districts and the establishment of a District Court for each district and ensures that the entire area of the State will be within the jurisdiction of one District Court or other.

4. *Section 5.*—Under the existing Travancore-Cochin Act there is no provision for appointing more than one Subordinate Judge to a Subordinate Judge's Court. A provision for this purpose on the lines of that in the Madras Act has been included. A specific provision for fixing the number of Subordinate Judge's Courts and Munsiff's Courts has also been added.

5. *Section 7.*—According to the scheme of reorganisation of courts, revenue districts, sessions divisions and civil districts are to be coterminous and so there will be only one District Court in a revenue district. At present, there is more than one District Court in some of the revenue districts. When the District Courts in excess are abolished, it will be necessary to have Additional Judges functioning at such places with all the powers of a District Judge. But under the existing provisions, an Additional Judge appointed to a District Court can function only in the place where a District Court is located and can exercise powers only in respect of matters assigned to him by the District Judge. Sub-section (2) of section 7 accordingly makes a new provision empowering the High Court to allow with the approval of Government an Additional District Judge to sit at a place other than the place where the District Court is located and all the powers of the District Judge including the power to receive cases can be exercised by the Additional District Judge—See section 4(2).

6. *Section 10.*—While under section 11 of the Travancore-Cochin Act the power to fix and vary the local limits of the jurisdiction of Munsiff's Courts is vested in the Government, under the Madras Act such power is vested in the High Court. The provision in the Madras Act has been followed in section 10.

7. *Section 11.*—The pecuniary jurisdiction of a District Munsiff under the Travancore-Cochin Act extends up to Rs. 3,000; but Government are empowered to raise his limit to Rs. 5,000. Under the Madras Act as amended in 1951 the limit is Rs. 5,000. The pecuniary jurisdiction of a Munsiff has accordingly been fixed at Rs. 5,000.

8. *Section 13.*—(i) Under the Travancore-Cochin Act appeals to the High Court from original decrees and orders in suits the value of the subject-matter of which does not exceed Rs. 3,000 lie to the District Court. The pecuniary limit under the Madras Act for direct appeals to the High Court which was fixed at Rs. 5,000 has recently been raised to Rs. 10,000 by Madras Act XVII of 1956; the limit in such cases has been fixed at Rs. 7,500.

(ii) Under the Travancore-Cochin Act, the Subordinate Judge can exercise appellate powers only in respect of cases transferred to his Court by the District Judge. Following the provision in the Madras Act, the first proviso to section 13 provides that appeals from the decrees or orders of Munsiffs can be filed before the Subordinate Judge sitting at a place remote from the station of the District Court, if the High Court so directs with the approval of Government.

9. *Section 18* provides that the High Court may invest District Judges and Subordinate Judges with small cause jurisdiction up to Rs. 1,000 and Munsiffs up to Rs. 500. The limits of small cause jurisdiction under the Travancore-Cochin Act are Rs. 500 and Rs. 200 respectively and Rs. 2,000 and Rs. 500 under the Madras Act. Under the Provincial Small Cause Courts Act, 1887 (9 of 1887), the upper limit is Rs. 1,000. This figure has been adopted. Again, under the Travancore-Cochin Act, Munsiffs may, unless otherwise directed, exercise small cause powers, but in the case of District Judges and Subordinate Judges, such powers have to be conferred. But under the Madras Act, Munsiffs and Judges can exercise such powers only if they are specifically conferred. The provision in the Madras Act has been followed in this respect.

10. *Section 19.*—(i) *Sub-section (1).*—While under the Madras Act, the High Court may permit subordinate courts to adjourn for periods not exceeding in the aggregate two months in a year, under the Travancore-Cochin Act, the High Court has to get the sanction of Government for permitting such adjournment and the period has been fixed as 60 days for summer, 7 days for Onam and 10 days for X'mas. The provision in the Madras Act has been adopted.

(ii) *Sub-section (2).*—The sub-section has been borrowed from section 22(1) (b) of the Travancore-Cochin High Court Act, 1125 (V of 1125), but with a slight change, viz., that the power may be exercised by the High Court during the civil court vacation and not

during the recess of the High Court. The corresponding provision in the Madras Act, namely, the third proviso to section 13, is more restricted in that it makes provision only for receiving appeals.

11. *Section 21.*—(i) *Sub-section (1)*—Under the Cochin Land Acquisition Act and the Land Acquisition Act, 1894 (1 of 1894), which is applicable to the Malabar district, “Court” is defined as the District Court (principal civil court of original jurisdiction) unless the State Government has appointed a special judicial officer within any specified local limits to perform the functions of the Court under the Act. In exercise of these powers, the Madras Government have appointed Subordinate Judges to perform the functions of the Court under the Land Acquisition Act, 1894. Similar action can be taken under the Cochin Act also. But under the Travancore Land Acquisition Act, (XI of 1089), which is in force in the Travancore portion of the State, there is no definition of the term “Court” as in the other Acts, and under its provisions, the District Court has to exercise the functions. The amendment made to the Travancore Act brings it into line with the two Land Acquisition Acts referred to above in this respect, so that in the Travancore area also Subordinate Judges may be appointed to exercise jurisdiction in land acquisition cases.

(ii) *Sub-section (2)*.—Section 21 of the Travancore-Cochin Civil Courts Act provides that all suits and other proceedings by or against Government or the Government of India, the Executive Officer of the Sree Padmanabhaswamy Temple, the Travancore Devaswom Board or the Cochin Devaswom Board shall be instituted in the District Court having local jurisdiction, notwithstanding anything contained in the Act. There is no corresponding provision in the Madras Act. Section 55 (2) and section 124 (2) of the Hindu Religious Institutions Act, 1950 (XV of 1950), also provide that suits and other proceedings against the Executive Officer of the Sree Padmanabhaswamy Temple or the Travancore Devaswom Board or the Cochin Devaswom Board shall be instituted only in the District Court. It is considered that no such restriction is necessary and that the suits and other proceedings referred to above may be regulated by the ordinary provisions. Accordingly, section 21 of the Travancore-Cochin Civil Courts Act has not been incorporated in the Act and sub-section (2) of section 55 and sub-section (2) of section 124 of the Hindu Religious Institutions Act have been omitted.

12. *Section 22.*—*Sub-section (3)* contains a transitional provision for preserving the small cause jurisdiction of District Judges, Subordinate Judges and District Munsiffs during the period between the commencement of this Act and the commencement of the law which may be enacted shortly in regard to the exercise of small cause jurisdiction by courts.

13. The Committee constituted under the proviso to sub-section (2) of section 3 of the Kerala State Legislature (Delegation of Powers) Act, 1956 (75 of 1956), has approved the enactment of this measure.

A. V. PAI,
Secy. to the Govt. of India,
Ministry of Home Affairs.

THE LEGISLATIVE ASSEMBLY (REMOVAL OF DIS- QUALIFICATIONS) AMENDMENT ACT, 1957

No. 2 OF 1957

Enacted by the President in the Seventh Year of the Republic of India.

An Act further to amend the Legislative Assembly (Removal of Disqualifications) Act, 1951.

In exercise of the powers conferred by section 3 of the Kerala State Legislature (Delegation of Powers) Act, 1956, the President is ^{75 of 1956.} pleased to enact as follows:—

Short title. 1. This Act may be called the Legislative Assembly (Removal of Disqualifications) Amendment Act, 1957.

Amendment of section 2, Act XV of 1951. 2. In section 2 of the Legislative Assembly (Removal of Disqualifications) Act, 1951—

- (i) in clause (v), the word “or” shall be added at the end;
- (ii) after clause (v), the following clause shall be inserted, namely:—

“(vi) that he is a member of the Air Defence Reserve or the Auxiliary Air Force raised under the Reserve and Auxiliary Air Forces Act, 1952.”

62 of 1952.

RAJENDRA PRASAD,
President.

K. Y. BHANDARKAR,
Secy. to the Govt. of India.

Reasons for the enactment.

Article 191(1) (a) of the Constitution provides that a person shall be disqualified for being chosen as, and for being, a member of the Legislative Assembly or Legislative Council of a State, if he holds any office of profit under the Government of India or the Government of a State, other than an office declared by the Legislature of the State by law not to disqualify its holder. A person who enrolls himself as a member of the Air Defence Reserve or the Auxiliary Air Force raised under the Reserve and Auxiliary Air Forces Act, 1952 (62 of 1952), will hold an office of profit under the Government of India for the purposes of this article and he will thereby become disqualified for being a member of the Kerala Legislative Assembly unless the disqualification is removed. It is considered that in the larger interests of the country, it is not desirable that a person who joins the Air Defence Reserve or the Auxiliary Air Force should incur such a disqualification. This disqualification should be removed, and the present enactment gives effect to this object.

2. The Committee constituted under the proviso to sub-section (2) of section 3 of the Kerala State Legislature (Delegation of Powers) Act, 1956 (75 of 1956), has approved the enactment of this measure.

A. V. PAI,

Secy. to the Govt. of India.
Ministry of Home Affairs.

K. Y. BHANDARKAR,

Secy. to the Govt. of India.

